

## **REMARKS**

Claims 1-47 were in this case. Claims 1-47 are subject to a restriction requirement. Claims 1-14, 30, 31, 33, 45, and 46 have been canceled without prejudice in view of the restriction requirement. Claims 15-19 and 28 have been amended. New claims 48-58 have been added.

### **Claim Amendments**

Claim 15 has been amended to make it independent and to recite the limitations of claim 1 from which it depended.

New claims 48-51 have been added which are directed to DNA which encodes specific consensus protein sequences which are given in SEQ ID NO. 26-29. These claims are supported by original claims 8-11 directed to the consensus protein sequences.

Claims 16-19, which are directed to DNA having certain nucleotide sequences, have been amended respectively, to depend from new claims 48-51.

Claim 28 has been amended to correct an obvious typographic error.

New claim 52 is direct to DNA encoding certain proteins which were recited in original claim 12.

New claims 53, 55 and 57 are directed to DNA encoding proteins having certain amino acid sequences and claims 54, 56 and 58 are directed to certain nucleotide sequences which encode the proteins listed.

The claims have at least in part been amended to clarify how the claimed sequences are related to one another.

None of the amendments represents the addition of new matter.

### **The Restriction Requirement**

The Examiner has restricted the claims into seven groups. Applicants elect prosecution of the claims of Group II (claims 15-29, 32, 34-44 and 47) with traverse. Applicants submit that the claims of all Groups are sufficiently related such that a search of all Groups, particularly of Group I and Group II or Group I and Group IV, would not represent an undue burden.

The claims of Group I and II are related in that the DNA of Group II encodes the proteins of Group I. The claims of Group IV are directed to promoter sequences that are identified in certain of the DNA sequences of Group II.

The Examiner has also required election of a single nucleotide sequence and corresponding amino acid sequence (when appropriate) for the elected Group. The Examiner states that this is not a requirement for election of species, because "each nucleotide and amino acid sequences is not a member of a single genus of invention, but constitutes an independent and patentably distinct invention." Applicants elect the nucleotide sequence of SEQ ID NO. 1 which encodes the amino acid sequence of SEQ ID NO. 3. Applicants make this election with traverse.

As a first matter, claim 15 is believed to be an allowable generic claim which properly links the species of DNA's claimed in Group I. Applicants further emphasize that DNA having nucleotide sequences of SEQ ID NOS. 1, 2, 15, 16 and 18 are related in that they are genomic and/or coding sequences of related proteins involved in restoration of cms in plants. The encoded proteins are those having amino acid sequences of SEQ ID Nos. 3, 17 and 19. Consensus amino acid sequences derived from comparisons of these proteins (and an additional partial sequence) are given as SEQ ID NOS. 26-29. The nucleotide sequences of SEQ ID NOS. 22-25 represent nucleotide sequences which

encode the consensus amino acid sequences. Thus, there is a significant structural and functional relationship among the DNA sequences claimed.

Applicants respectfully request that on allowance of the generic claim (or a related generic claim) that a reasonable number of additional species be examined.

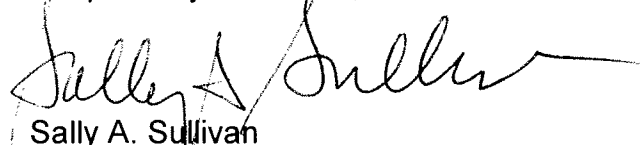
Claims 15-54 are believed to read on the election.

**Conclusion**

This response is accompanied by a Petition for Extension of Time (Five Months) with fee in the amount of \$2,160.00 (large entity). This amendment cancels 18 claims and adds 11 dependent claims. No additional fees for excess claims are believed to be due.

Please debit Deposit Account No. 07-1969 in the amount of \$2,160.00 to pay the extension of time fee. If this amount is incorrect, please debit any underpayment, or credit any overpayment, to Deposit Account No. 07-1969.

Respectfully submitted,



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